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**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

January 15, 2008

Agenda ID #7298  
Quasi-legislative

## TO PARTIES OF RECORD IN RULEMAKING 06-03-004

This is the proposed decision of Commissioner Peevey. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov). Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed either electronically pursuant to Resolution ALJ-188 or with the Commission's Docket Office. Comments should be served on parties to this proceeding and parties to R.03-10-003 in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Duda at [dot@cpuc.ca.gov](mailto:dot@cpuc.ca.gov) and Commissioner Peevey's advisor Andy Schwartz at [as2@cpuc.ca.gov](mailto:as2@cpuc.ca.gov). The current service list for this proceeding is available on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

/s/ ANGELA K. MINKINAngela K. Minkin, Chief  
Administrative Law Judge

ANG:tcg

Attachment

Decision **PROPOSED DECISION OF COMMISSIONER PEEVEY** (Mailed 1/15/2008)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking  
Regarding Policies, Procedures and  
Rules for California Solar Initiative, the  
Self-Generation Incentive Program and  
Other Distributed Generation Issues.

Rulemaking 06-03-004  
(Filed March 2, 2006)

**ORDER ADDRESSING COMMUNITY CHOICE  
AGGREGATION NET ENERGY METERING SERVICE OPTION**

This decision directs the electric utilities to modify their tariffs to provide Net Energy Metering (NEM)<sup>1</sup> services to Community Choice Aggregation (CCA) customer-generators.<sup>2</sup> We direct the electric utilities to allow CCA customer-generators with solar, biogas and fuel cell generators up to 1 megawatt (MW)

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<sup>1</sup> Pub. Util. Code § 2827(b)(3) defines *NEM* as “measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (h)...”

<sup>2</sup> Pub. Util. Code § 2827(b)(2) defines an eligible *customer generator* as a “residential, small commercial customer as defined in subdivision (h) of Section 331, commercial, industrial, or agricultural customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than one megawatt that is located on the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.”

and wind generators up to 50 kilowatts (kW) to receive generation credits from the CCA and transmission and distribution credits from the serving utility.<sup>3</sup>

## **Background**

NEM is a service currently offered to utility customers that have installed solar, wind power, biogas and fuel cell generation systems of up to 1 MW. These “customer-generators” receive credit for the energy produced by their distributed generation systems net of the energy used by the customer.<sup>4</sup> For solar generators up to 1 MW and wind generators up to 50 kW, the credit provided by the utility for customer-generators equals the bundled retail price of power.<sup>5</sup> “Bundled” service includes transmission, distribution and all other energy-related charges of the customer-generator’s otherwise applicable schedule. Biogas and fuel cell generators receive only the generation component of the rate as a credit.

CCAs are agencies of local governments that are authorized, pursuant to Assembly Bill (AB) 117,<sup>6</sup> to aggregate electrical loads in their jurisdictions and sell power to local customers who would otherwise have been served by the utility. CCA customers continue to pay their bills through the utility, but the

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<sup>3</sup> Biogas and fuel cell generators up to 1 MW, and wind generators with a capacity of more than 50 kW to 1 MW, pursuant to Pub. Util. Code § 2827.

<sup>4</sup> The calculation of the difference between the customer’s energy production and its usage is conducted annually for purposes of determining the credit owed by the utility to the customer-generator.

<sup>5</sup> Wind energy generators with a capacity of more than 50 kW, but less than 1 MW, do not receive a bundled credit (which includes T&D), only the generation credit.

<sup>6</sup> Chapter 838, Statutes of 2002.

utility passes through to the CCA the customer's payment for the generation portion of the bill. The utility provides CCA customers with transmission and distribution services.

In concept, CCA customers should have equal access to NEM services. Decision (D.) 05-12-041 stated our intent to investigate how the utilities should provide NEM service to eligible customer-generators issues:

Net metering effectively requires the utility to pay the customer the utility's full retail price for power that is produced by the customer but sent into the utility grid. Currently, we permit net metering for certain renewable projects. We have recently addressed this issue in R.04-03-017 (now R.06-03-004), where we are developing policies for distributed generation in general and our Self-Generation Incentive Program (SGIP) in particular. We believe that proceeding is the appropriate venue for deciding issues relating to renewable project net metering and decline to make any decision here about whether CCAs and their customers would qualify for net metering. In that regard we would consider whether it is appropriate for utility bundled customers to pay for the high cost of net metered power produced by CCA customers.

Subsequently, Commission Resolution 4013-E adopted the utilities' CCA tariffs but did not resolve issues concerning NEM service to CCA customers. Resolution 4013-E stated:

Service under (the NEM rate) schedule shall not be permitted in combination with CCA service until such time as the Commission establishes the terms and conditions applicable to CCA and its customers participating in Net Energy Metering service.

On August 30, 2007, the Assigned Administrative Law Judge (ALJ) in this proceeding issued a ruling proposing a way to treat NEM services for CCA customers. The following parties filed comments on that proposal: Southern

California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), San Joaquin Valley Power Authority (SJVPA), Local Government Sustainable Energy Coalition (LGSEC), and, jointly, Solar Alliance, Vote Solar Initiative, and the California Solar Energy Industries Association (Solar Parties).

We herein adopt terms and conditions for CCA Net Energy Metering service.

### **CCA Net Energy Metering**

In general, CCAs and their customer-generators may be treated in two ways for purposes of NEM services. One would be for the utility to treat CCA customer-generators the way it treats its own customer-generators, that is, by providing a credit for power equal to the “bundled” retail rate. The other would be for the utility to treat CCA customer-generators the way the utilities treat direct access customers served by competitive electric service providers, that is, not credit the customer-generator for power, only for T&D.

D.05-12-041 and Resolution E-4013, issued in R.03-10-003, stated the Commission’s intent to solicit the parties’ comments on related issues. The ALJ’s ruling proposed future NEM policy for CCA customer-generators with solar, biogas, and fuel cell generators up to 1 MW, and wind generators up to 50 kW:

- CCAs will provide the eligible CCA customer-generator with the generation-related bill credit based on the CCA generation rate. The CCA will inform the utility of the generation rate for the credit, and the utility will pass the credit on to the customer-generator. The CCA will be responsible for creating the applicable generation-related bill credit structure associated with this service option.
- The utility will provide an eligible CCA customer-generator with transmission and distribution (T&D) and other energy-related bill credits.

- Any net balance related to generation charges that are collected from an eligible CCA customer-generator will be paid by the utility to the CCA as set forth in Rule 23 Q, which describes the payment and collection terms between the serving utility and a CCA customer.

### **Parties' Comments**

Several parties commented on various aspects of the proposal.<sup>7</sup> Several clarify that, currently, the only generation technologies that qualify for a “bundled” credit are solar and wind. Fuel cell and biogas projects receive only a credit for generation.

As to whether CCA customer generators should qualify for NEM service, the utilities are divided. SCE supports treating CCA customer-generators as it treats its own customer-generators. SDG&E and PG&E propose to treat CCA customer-generators like direct access customer-generators and not provide any credit for power. In general, all parties comment that no new metering would be required, although the utilities believe they should have the opportunity to recover increased billing costs. SJVPA and LGSE observe that CCA customers pay their share of all utility billing costs when they pay for transmission and distribution. SCE believes the Commission should be able to verify that the CCA has passed on the utility credit to the customer-generator. LGSE responds that such regulation would be contrary to the Commission’s CCA orders and its interpretation of AB 117.

### **Discussion**

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<sup>7</sup> Solar Parties and PG&E advocated in favor of CCA customers retaining “renewable energy credits” for their qualifying generation projects. This issue is outside the scope of this inquiry and we do not address it here.

We herein direct the utilities to offer CCA customer-generators the same NEM service it offers its own customers. Our reasoning is simple. The Commission has stated its support of renewable generation technologies and distributed generation generally. We have aggressively pursued policies in favor of those generation resources. We have stated our support for the development of CCAs, consistent with our interpretation of AB 117, and therefore reject differential treatment of CCA customer-generators and utility customer-generators.

We clarify here that CCAs already pay a share of billing costs in their transmission and distribution rates. If the costs of billing increase as a result of this order, those costs should be very small in the near term because few CCAs are expected to begin serving their customers soon and, accordingly, CCA customer-generators are likely to be few. Under the circumstances, the appropriate place for the utilities to identify and seek recovery of billing costs is the general rate case, consistent with D.04-12-046.

We agree with LGSE that the Commission should not, as SCE proposes, verify that the CCA has passed along the credit to the customer-generator. D.05-12-041 found that the Commission has limited jurisdiction over CCA program implementation and does not have general regulatory oversight of CCAs. (See D.05-12-041, Conclusions of Law 1 and 2.) We presume the CCA would pass along the credit in order to retain the customer-generator rather than risk losing it to the utility.

This order therefore directs the utilities to modify their tariffs to treat CCA customer-generators as they treat their own customer-generators for purposes of NEM service. CCA customer-generators with solar generators up to 1 MW, and wind generators up to 50 kW will qualify for a bundled credit for power

calculated over the course of a year. The CCA in such cases will inform the utility of the applicable generation rate for the credit, and the utility will pass the credit on to the customer-generator. The utility will credit the bundled transmission and distribution rates to the CCA for power. CCA customer-generators using biogas, fuel cell technologies, as well as wind sized 50 kW to 1 MW (see PG&E comments on p. 2, footnote 2) would receive a generation credit from the CCA, consistent with the utilities' treatment of their own customer-generators.

### **Comments on Proposed Decision**

The proposed decision of Commissioner Peevey in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 and Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by \_\_\_\_\_ and reply comments were filed by \_\_\_\_\_.

### **Assignment of Proceeding**

President Michael R. Peevey is the assigned Commissioner, and Dorothy J. Duda is the assigned ALJ for this portion of this proceeding.

### **Findings of Fact**

1. Requiring the utilities to offer the same NEM service to CCA customer-generators that they offer to their own customers will promote investments in renewable energy projects and promote fair and non-discriminatory treatment of CCAs and their customers.
2. The Commission has limited jurisdiction over CCA program implementation and does not have general regulatory oversight of CCAs.
3. The utilities have not demonstrated that offering the subject NEM service to CCA customer-generators will increase their costs in ways that would justify reviewing costs outside of the general rate case.



**Conclusions of Law**

1. The Commission should order the utilities to modify their tariffs to offer NEM services to CCA customer-generators that are comparable to the NEM service provided to the utilities' own customer-generators, as set forth herein.
2. To the extent the provisions of this order cause a utility to incur additional costs, the utility should seek recovery of those costs in its general rate case.
3. The business relationship between the CCA and its customer-generator that involves rates and services should not be regulated by the Commission, consistent with the Commission's findings in D.05-12-041.

**IT IS ORDERED** that:

1. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall, within 20 days of the effective date of this order, submit tariff changes to implement "Net Energy Metering" (NEM) for customer-generators that are served by Community Choice Aggregators (CCA) and that generate electricity with solar projects up to 1 megawatt or wind projects up to 50 kilowatts (kW), as follows and otherwise consistent with its NEM service to their own customer-generators:
  - The CCA will inform the utility of the CCA generation rate applicable to the any applicable NEM bill credits. The CCA will be responsible for the applicable generation-related bill credit structure associated with this service option and providing the CCA customer-generator with the applicable generation-related bill credit.
  - At the end of every 12-month period, the utility shall calculate the difference between electricity supplied through the electric grid and the electricity generated by the CCA customer-generator and fed back to the electric grid and a credit amount based on the CCA's generation rate and the utility's transmission and distribution rates.

- The credit related to the CCA customer-generator's power will be paid annually by the utility to the CCA as set forth in each utility's Rule 23 Q, which describes the payment and collection terms between the serving utility and a CCA customer.

2. Biogas and fuel cell generators and wind generators with capacity of more than 50 kW but less than 1 MW receive only the generation component of the rate as a credit.

3. This proceeding remains open to consider other pending matters.

4. This decision shall be served on the service list for this proceeding and in Rulemaking 03-10-003.

Dated \_\_\_\_\_, at San Francisco, California.

### **INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service lists.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding and also in R.03-10-003 by U.S. mail. The service lists I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated January 15, 2008, at San Francisco, California.

/s/ TERESITA C. GALLARDO  
Teresita C. Gallardo